

BEFORE THE DIVISION OF WATER RIGHTS
DEPARTMENT OF PUBLIC WORKS
STATE OF CALIFORNIA

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In the matter of Revocation of Permit Number 1096 heretofore
Issued upon Application Number 2497 of Sierra Highland Min-
ing Company allowing the appropriation of four hundred
fifty acre feet per annum of storage and five cubic
feet per second of direct diversion from Lake
Hawley a tributary of the East Fork of the
North Fork of the Yuba River in Sierra
County for Mining and Domestic Purposes.

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DECISION NO. A 2497 D-136-A-2497

Decided December 28, 1926.

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APPEARANCES AT HEARING HELD June 7, 1926.

For Permittee:

Sierra Highland Mining Company

E. M. Vail

EXAMINER: Everett B. Bryan, Deputy Chief, Division of Water Rights

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O P I N I O N

On June 28, 1922, a permit was issued on Application 2497 to Paul
G. Thorne, allowing him to appropriate from Lake Hawley, for general mining
and domestic use, 450 acre feet per annum for storage to be collected from
about February 1st to about June 1st of each season and 5 cubic feet per
second for direct diversion throughout the entire year.

The applicant proposed the construction of a timber cribbed rock
and earth fill dam at the outlet of Lake Hawley to be approximately 20 feet
in height, 50 feet in length at the top, 15 feet in length at the bottom,
with a top width of 6 feet, a slope of the front or water face of 2 to 1 and
a slope on the back of $2\frac{1}{2}$ to 1 and thereby impound 450 acre feet in Lake Hawley.

The stored water and the direct flow were to be diverted at the dam and conveyed by means of a conduit $3 \frac{2}{3}$ miles in length to the permittee's gold mines which are located in Sections 3 and 4, T 20 N, R 11 E, and Sections 33 and 34, T 21 N, R 11 E, M.D.B. & M. The water was to be returned to the Middle Fork of the North Fork of the Yuba River in Section 33, T 21 N, R 11 E, M.D.B. & M. The estimated cost of the project was \$50,000.

According to the terms of the permit, construction work was to have been commenced on or before September 1, 1922, and to have been completed on or before October 1, 1923, and complete application of the water to the proposed use was to have been made on or before October 1, 1924.

According to the 1922 progress report submitted by the permittee on February 5, 1923, about \$1000 had been expended in making the necessary surveys and the bringing in and storing of material so that construction work on the dam and pipe line could be commenced the following spring.

On January 10, 1924, the permittee reported that \$1100 had been spent to date and that practically nothing had been done since the last report owing to lack of funds but that as funds were available at that time the construction work would proceed as soon as the weather permitted. On the strength of this statement an extension of time was granted within which to complete construction work until September 1, 1924.

On September 8, 1924, an engineer of this office investigated the project and reported that very little progress had been made although certain work had been done to facilitate the construction work by the importation of sections of the pipe line which were to be used as the diversion conduit and that roads had been cleared and repaired for this purpose.

On October 2, 1924, the permit was assigned to the Sierra Highland Mining Company and this office was informed that arrangements had been made to insure the financing of the project.

A further extension of time until July 1, 1926, was allowed the permittee within which to complete the construction work and use of water under the permit the permittee being informed that no further extensions would be allowed except for good cause shown at the end of the extended period.

A progress report submitted to this office on January 5, 1926, stated that about \$2500 had been expended on the project and a letter accompanying the report stated that the Company had not been able to construct the dam and pipe line and that it was not known when it would be able to do so and permittee asked for a further extension of time.

After due consideration the permittee was informed by this office that it was our opinion that insufficient diligence had been manifested in the prosecution of the construction work to warrant the granting of a further extension and it was suggested that the permittee withdraw the permit and file a new application at such a time as it could see its way clear to complete the project within a reasonable limit of time.

There being no response to this suggestion a hearing was set upon the permit to be held in Room 707 Forum Building, Sacramento, at 10:00 o'clock A.M. June 7, 1926, at which permittee was required to show cause why the permit should not be revoked for failure to comply with the terms thereof.

Permittee was represented at the hearing by E. M. Vail, vice president of the Company who agreed to file a new application to take the place of the permit and requested that action on the permit be withheld until after the approval of the new application with the understanding that upon the approval of the new application, Permit 1096 could be cancelled.

Since the hearing the Company filed Application 5046 which has been advertised and as no protests appear against it, is now ready for permit and it would therefore appear that Permit 1096 should be cancelled in accordance with the agreement between the permittee and this office at the time of the hearing.

ORDER

Permittee having failed to complete construction and beneficial use of water under Permit Number 1096 issued upon Application Number 2497 within the time allowed by the Division of Water Rights, and permittee having filed Application Number 5046 with the Division of Water Rights to take the place of Application Number 2497, Permit Number 1096 with the understanding that when the later application was ready for action, if it were unprotected the permit on the earlier application might be revoked, and Application Number 5046 now being ready for action without protest,

IT IS HEREBY ORDERED that said Permit 1096 heretofore issued upon Application 2497 be revoked and cancelled upon the records of the Division of Water Rights.

Dated at Sacramento, this 28th day of December, 1926.

(Edward Hyatt, Jr.)
CHIEF OF DIVISION OF WATER RIGHTS

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